

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA - ATLANTA DIVISION

IN RE:

Hiep Ngoc Tran,
AKA Ngoc-Hiep Thi Tran,

Debtor

Hiep Ngoc Tran,
AKA Ngoc-Hiep Thi Tran,

MOVANT,

VS.

Citibank, N.A.

RESPONDENT.

* CASE NO.: **22-50495-pwb**

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* CHAPTER: **7**

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Civil Action File No.
20SCE1238

MOTION TO AVOID JUDICIAL LIEN

COMES NOW, Debtor, **Hiep Ngoc Tran**, and through counsel moves for an order avoiding a lien held by Respondent pursuant to 11 U.S.C. Section 522(f) and alleges the following:

1.

Respondent obtained a judgment against the Debtor on or about 2020 in the **State** Court of **Cherokee County - Georgia**, and the amount of that judgment lien on the petition date was **\$4,273.00**.

2.

Pursuant to 11 U.S.C. Section 522 and O.C.G.A. 44-13-100, Debtor properly claimed as exempt on Schedule C, including all allowed amendments to schedule C, the following property:

Fill in this information to identify your case:

Debtor 1	Hiep Ngoc Tran		
	First Name	Middle Name	Last Name
Debtor 2 (Spouse if, filing)			
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	NORTHERN DISTRICT OF GEORGIA - ATLANTA DIVISION		
Case number (if known)	22-50495-pwb		

☒ Check if this is an amended filing

Official Form 106C

Schedule C: The Property You Claim as Exempt

4/19

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions—such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds—may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.

Part 1: Identify the Property You Claim as Exempt

1. Which set of exemptions are you claiming? Check one only, even if your spouse is filing with you.

- ☒ You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
- ☐ You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. For any property you list on *Schedule A/B* that you claim as exempt, fill in the information below.

Brief description of the property and line on <i>Schedule A/B</i> that lists this property	Current value of the portion you own Copy the value from <i>Schedule A/B</i>	Amount of the exemption you claim Check only one box for each exemption.	Specific laws that allow exemption
2019 Nissan Pathfinder 29000 miles Line from <i>Schedule A/B</i> : 3.1	\$35,000.00	<input checked="" type="checkbox"/> \$5,000.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(3)
2019 Nissan Pathfinder 29000 miles Line from <i>Schedule A/B</i> : 3.1	\$35,000.00	<input checked="" type="checkbox"/> \$9,300.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)
Bed Line from <i>Schedule A/B</i> : 6.1	\$200.00	<input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(4)
Broken Tablet, Airpod, and 1 Cell phone Line from <i>Schedule A/B</i> : 7.1	\$250.00	<input checked="" type="checkbox"/> \$250.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(4)
Pistol Line from <i>Schedule A/B</i> : 10.1	\$200.00	<input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)

Debtor 1 **Hiep Ngoc Tran**

Case number (if known) **22-50495-pwb**

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own <small>Copy the value from Schedule A/B</small>	Amount of the exemption you claim <small>Check only one box for each exemption.</small>	Specific laws that allow exemption
Clothes and Sheoes Line from <i>Schedule A/B</i> : 11.1	<u>\$1,000.00</u>	<input checked="" type="checkbox"/> <u>\$1,000.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(4)
Costume Jewelry Line from <i>Schedule A/B</i> : 12.1	<u>\$50.00</u>	<input checked="" type="checkbox"/> <u>\$50.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(5)
Cash Line from <i>Schedule A/B</i> : 16.1	<u>\$100.00</u>	<input checked="" type="checkbox"/> <u>\$100.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)
Checking: Bank of America Line from <i>Schedule A/B</i> : 17.1	<u>\$897.00</u>	<input checked="" type="checkbox"/> <u>\$897.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)
Savings: Bank of America Line from <i>Schedule A/B</i> : 17.2	<u>\$94.00</u>	<input checked="" type="checkbox"/> <u>\$94.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)
Savings: Bank of America Line from <i>Schedule A/B</i> : 17.3	<u>\$304.50</u>	<input checked="" type="checkbox"/> <u>\$609.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)
Ambetter health insurance Line from <i>Schedule A/B</i> : 31.1	<u>\$0.00</u>	<input checked="" type="checkbox"/> <u>\$0.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	O.C.G.A. § 44-13-100(a)(6)

3. **Are you claiming a homestead exemption of more than \$170,350?**
(Subject to adjustment on 4/01/22 and every 3 years after that for cases filed on or after the date of adjustment.)
- ☒ No
- ☐ Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?
- ☐ No
- ☐ Yes

3.

The value of each claimed exemption in the above property, as shown on Schedule C, is equal to or greater than the market value of that property, as accurately reflected on Schedules A and B.

4.

Debtor also owns 2019 Nissan Pathfinder automobile, which has a value of **\$35,000.00** and is subject to a purchase money lien of **\$0.00**, leaving **\$35,000.00** in equity, an amount equal to or less than the claimed exemption. Debtor is not attempting to avoid Respondent's lien against the vehicle because debtor asserts that, under Georgia Law, Respondent's F.I.F.A. does not attach to the vehicle – an issue which properly will be decided through the claims allowance process.

WHEREFORE, Debtor is entitled to entry of an Order avoiding Respondent's lien against the exempt property, as set forth above.

Respectfully submitted
CLARK & WASHINGTON, PC

/s/ _____
Jessica Douglas GA Bar No. 340570
Attorneys for Debtor

CLARK & WASHINGTON, PC
3300 Northeast Expressway
Building 3
Atlanta, GA 30341
(404) 522-2222
Fax(770)220-0685

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Civil Action File No.
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NOTICE OF REQUIREMENT OF RESPONSE TO MOTION TO
AVOID JUDICIAL LIEN ON EXEMPT PROPERTY AND OF TIME TO FILE SAME

NOTICE IS HEREBY GIVEN that a Motion to avoid a judicial lien on exempt property pursuant to 11 U.S.C. Section 522 has been filed in the above-styled case on 1/27/2022.

NOTICE IS FURTHER GIVEN that, pursuant to BLR 6008-1(b) NDGA, the Respondent must file a response to the Motion within 21 days after service, exclusive of the day of service, and serve a copy of same on Movants. In the event no response is timely filed and served, then the Bankruptcy Court may enter an order granting the relief sought.

Respectfully submitted
CLARK & WASHINGTON, LLC

/s/
Jessica Douglas GA Bar No. 340570

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3300 Northeast Expressway
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Atlanta, GA 30341
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CERTIFICATE OF SERVICE

I certify that I have this date served the following parties with a copy of the within "Notice Of Requirement Of Response To Motion To Avoid Judicial Lien On Exempt Property And Of Time To File Same" and "Motion To Avoid Judicial Lien" by placing true copies of same in the United States Mail with adequate postage affixed to insure delivery, addressed to:

S. Gregory Hays- Chapter 7 Trustee
2964 Peachtree Road
Suite 555
Atlanta, GA 30305-2153

Hiep Tran
308 Wickley Way
Woodstock, GA 30188

We served by Certified Mail
Recpt #: 7020 1290 0001 9007 1850
Citibank, N.A.
Barbara J. Desoer, CEO
701 East 60th Street North
Sioux Falls, SD 57104

Dated: 1/27/2022

/s/

Jessica Douglas GA Bar No. 340570
Attorneys for Debtor

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3300 Northeast Expressway
Building 3
Atlanta, GA 30341
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